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April 17, 2009

Ms. Valerie Frances, Executive Director
National Organic Standards Board
USDA National Organic Program
Agricultural Marketing Service
Ag Stop 0268, Room 4004
1400 Independence Ave., SW
Washington, DC 20250-0268.

RE: **Docket: AMS-TM-09-0014**
Comments to the National Organic Standards Boards
Joint Crops & Compliance, Accreditation, and Certification Committee

Dear Ms. Frances:

The Accredited Certifiers Association (ACA), representing 40 USDA accredited certifying agencies, is providing the following comments regarding the NOSB Joint Crops & Compliance, Accreditation and Certification Committee *Guidance Document Recommendation on Implementation of Biodiversity Conservation in Organic Agriculture Systems*.

Guidance vs. Recommendation

The Committee uses the terms “guidance” and “recommendation” interchangeably in this document. We suggest the Committee clarify whether it intends for the Board’s consideration of this topic to conclude in a formal recommendation on the implementation of the biodiversity standards or in a more general guidance on this subject. For clarity, this point should also be addressed in the Committee’s introduction of the topic during the NOSB meeting, as the agenda reinforces the confusion by describing the topic as a “guidance recommendation.”

We suggest that each instance of the use of these words be evaluated to determine accuracy. We specifically urge that the heading of Section V. be revised as follows: ~~Guidance Document Recommendations~~ to the National Organic Program.

Terminology: “Biodiversity” vs. “Natural Resources”

In our experience with implementation of biodiversity standards, we have learned that many farmers are unfamiliar with, and even resistant to this term. Some farmers have reacted strongly when asked by their certification bodies to provide information about how they maintain or

improve biodiversity on their farms, pointing out that busy farmers are not able to perform scientific studies or spend a lot of time tracking the wild species of plants and animals that share their land with the domesticated plants and animals they raise. As a practical matter, we suggest that the NOSB de-emphasize the term “biodiversity” in its policy documents and instead, focus on the term “natural resources.” This terminology is more familiar to farmers, as it is used by other USDA programs that farmers perceive positively. We believe that this shift would support implementation of the biodiversity standards – possibly with fewer difficulties – to both farmers and certifiers, because the term “natural resources” encompasses both the biotic and abiotic elements of the environment – the very systems that support and maintain biodiversity in an ecosystem.

We also note that the Rule provides a clear definition of the term “natural resources of the operation” as “the physical, hydrological, and biological features of a production operation, including soil, water, wetlands, woodlands, and wildlife.” The term “biodiversity” is used, but is not defined in the regulation. As certification agents, we must rely on the text of the rule as the basis for our activities and decisions.

With these ideas in mind, we suggest that the title of the Committee’s paper be revised to read “Implementation of ~~Biodiversity~~ Natural Resource Conservation in Organic Agriculture Systems” and that the text of the document be refocused in the same manner.

Committee Recommendation #1: Materials Review by the NOSB

The committee has added “biodiversity” to the materials evaluation documents in order to implement an earlier (2006) NOSB recommendation.

The Committee has added consideration of biodiversity in 2 places within the list that NOSB uses to evaluate materials. Both mentions of biodiversity are relatively unspecific when compared with some of the other evaluation criteria. Although this lack of specificity may prompt questions about how the criteria will be applied, this is probably the most practical approach. This is because:

- The concept of biodiversity is multi-faceted, its application to organic farming systems is wide-ranging, and many different types of materials are evaluated with these criteria;
- The flexibility allows the NOSB and the TAP reviewers to determine the best way to apply the criterion on a case-by-case basis, depending on the type of material under consideration, as well as its intended and unintended impacts on agroecology; and
- Existing criteria are equally vague, yet the NOSB has been able to implement them.

We anticipate that the biodiversity criterion will mostly be used to ensure that materials that have obviously deleterious environmental effects (e.g. a broad-spectrum pesticide that kills insects of many types, or a pesticide that has an unusually strong effect on aquatic organisms) could be prohibited for use in organic systems. We think the biodiversity evaluation criterion will only come into play in the case of evaluating the most egregious of materials when other evaluation criteria would have also been sufficient to prevent the material from being allowed for use on an organic farm.

Conclusion: We believe the addition of this provision to be somewhat helpful and without negative impacts and support its inclusion in the recommendation.

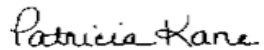
Committee Recommendation #2: Development and Implementation of the Organic System Plan

- A. Producers: As elucidated by the citations provided by the Committee in the earlier sections of the recommendation, we agree that the Rule is clear that producers must make a proactive effort to manage for biodiversity. As this is a requirement of the regulations, certifiers must have a way to verify the producer's efforts to conserve biodiversity – the Organic System Plan (OSP) is the first step in this process. OSPs that contain questions about biodiversity provide a prompt for producers to provide information to their certifiers about biodiversity conservation. As certification bodies all use extensive OSPs already, and they routinely update these forms, we don't think this requirement will create a significant implementation problem and support this recommendation.
- B. Inspectors: As noted by the Committee, IOIA already includes the topic of biodiversity in their inspector trainings. Certifiers can easily reinforce this point along with the many other points that they already address in training their inspectors. We support this recommendation because we do not think it will create any deleterious impacts on certification bodies while providing more knowledgeable inspectors.
- C. Certifiers:
- The first provision in this section allows certifiers to develop their own system for verifying producers' efforts to address biodiversity on their farms. The Committee's earlier Guidance document had mentioned use of the ATTRA OSP, but this reference has been removed from the current recommendation. We believe this revision is an improvement, as it allows certifiers the flexibility to develop their own questions or to use those on the ATTRA OSP. The National Organic Program's (NOP) accreditation audits will provide a check to see whether the certifier's approach complies with the regulations. We support this recommendation.
 - The recommendation clearly states that the biodiversity standards would be implemented like any other – that minor non-compliances may be corrected under the supervision of the certification body. Some commentors on the previous version of the Committee's document expressed concerns that some producers have little training or experience with the concept of biodiversity and feared that this lack of knowledge could result in suspension or revocation of such operators' certification. In response to these concerns, we support inclusion of the Committee's statement about implementation of the BD standards by certification bodies.
- D. National Organic Program
- The Committee recommends that NOP provide training to certifiers on topics related to biodiversity. We support this provision, noting that clarification of the NOP's interpretation of all standards is essential to their fair and equitable enforcement by certification bodies.

- The Committee notes that the NOP must revise the checklist it uses for audits of certifiers to ensure that all certification bodies are being audited with regard to their implementation of the biodiversity standards. We support this provision, as the audit checklist is a critically important tool for equitable treatment of certifiers by the NOP.

The ACA would like to thank the National Organic Standards Board Joint Crops & Compliance, Accreditation and Certification for the opportunity to comment on this recommendation.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Kane".

Patricia Kane
Coordinator